

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

WALT FAMULAR, HOWARD FRANK,
NANCY FURLONG, JOHN NEWMAN,
SHERRY ADAMS, RICHARD SPAHR,
WILLIAM DAVID SEAY, DARLA
MOULTON, and KARIN LEMAY, on behalf
of themselves and all others similarly situated,

Plaintiffs,

-against-

WHIRLPOOL CORPORATION, LOWE'S
HOME CENTERS, LLC, HOME DEPOT
U.S.A., INC., and SEARS HOLDINGS
CORPORATION,

Defendants.

CASE NO.
7:16-cv-00944-VB

**HOME DEPOT U.S.A., INC.'S NOTICE OF MOTION TO DISMISS WITH PREJUDICE
ALL COUNTS OF THE FIRST AMENDED CLASS ACTION COMPLAINT**

PLEASE TAKE NOTICE that, upon the Memorandum of Law of Home Depot U.S.A., Inc. dated May 12, 2016, defendant Home Depot U.S.A., Inc. will move this Court, before the Honorable Vincent L. Briccetti, United States District Judge, in the United States District Courthouse for the Southern District of New York, 300 Quarropas Street, White Plains, New York 10601-4150, for an order dismissing with prejudice all counts of the First Amended Class Action Complaint in the above-referenced action directed at Home Depot pursuant to Rules 9(b) and 12(b)(6) of the Federal Rules of Civil Procedure, at a date and time convenient to the Court and parties.

Dated: May 12, 2016

Respectfully submitted,

KING & SPALDING LLP

By: /s/ Peter Isajiw

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*Attorney of Record for Defendant Home Depot
U.S.A., Inc.*